



**DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT SECURITY ADMINISTRATION**

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032
- DECISION -

BOARD OF APPEALS

JOHN J. KENT
Chairman

HENRY G. SPECTOR
HAZEL A. WARNICK
Associate Members

SEVERN E. LANIER
Appeals Counsel

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

DECISION NO.: 463-BR-82

DATE: April 20, 1982

APPEAL NO.: 08048

S. S. NO.:

CLAIMANT: Helen L. Sprow

EMPLOYER: Prince George County Government

L. O NO.: 7

APPELLANT: CLAIMANT

ISSUE: Whether the Claimant's unemployment was due to leaving work voluntarily, without good cause, within the meaning of Section 6(a) of the Law; whether the Claimant is eligible for benefits pursuant to Section 3(b) of the Maryland Unemployment Insurance Law; and whether the Claimant was paid the qualifying amount of wages under the provisions of Section 4(d) of the Law.

NOTICE OF RIGHT OF APPEAL TO COURT

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE SUPERIOR COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

May 20, 1982

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

After having reviewed the record in this case, the Board of Appeals adopts the facts and the reasoning contained in the decision of the Appeals Referee.

The Board concludes that the payments made to the Claimant during the second and third quarters of her benefit year (the third quarter of 1979 and fourth quarter of 1979, respectively) were paid "under a plan or system" established by the Employer "on account of . . . sickness or accident disability...", within the meaning of Section 20(n)(2) of the Maryland Unemployment Insurance Law. Therefore those payments are not covered wages within the meaning of the Law.

DECISION

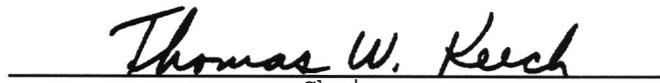
The unemployment of the Claimant was due to a non-disqualifying reason within the meaning of Section 6(a) of the Maryland Unemployment Insurance Law. She is entitled to benefits from the week beginning August 10, 1980, the date her benefit year began, if she is otherwise eligible under the Law.

The Claimant is not eligible for benefits pursuant to Section 3(b) of the Maryland Unemployment Insurance Law.

The Claimant was not paid the qualifying amount of wages under the provisions of Section 4(d) of the Law.

The decision of the Appeals Referee is affirmed.


Associate Member


Chairman

W:K

raf

COPIES MAILED TO:

CLAIMANT

EMPLOYER

Van S. Powers, Attorney

UNEMPLOYMENT INSURANCE - COLLEGE PARK



STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
 1100 NORTH EUTAW STREET
 BALTIMORE, MARYLAND 21201
 383 - 5040

BOARD OF APPEALS
 JOHN J. KENT
 Chairman
 HENRY G. SPECTOR
 HAZEL A. WARNICK
 Associate Members
 SEVERN E. LANIER
 Appeals Counsel

- DECISION -

	DATE:	May 28, 1980	GARY SMITH Chief Hearings Officer
CLAIMANT:	APPEAL NO.:	08048	
	S. S. NO.:		
EMPLOYER:	L. O. NO.:	7	
	APPELLANT:	Claimant	

ISSUE:
 Whether the claimant was discharged for gross misconduct connected with his work within the meaning of Section 6(b) of the Law.

NOTICE OF RIGHT OF FURTHER APPEAL

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON June 12, 1981

- APPEARANCES -

FOR THE CLAIMANT:	FOR THE EMPLOYER:
Present, Represented by Van Powers, Atty.	Represented by Earl Morgan, Executive Director of Housing, & Jeanette Drake, Prince George's County Office of Finance & Chris Costello, Gibbens Company

A hearing was first scheduled on November 14, 1980 and December 5, 1980 which hearings were postponed on the instance of the Chief Hearings Officer. The matter came on for hearing on January 8, 1981 at which time both parties appeared. The claimant had requested a summons for a witness. Subpeona Duces Tecum was

duly issued. The witness failed to appear for the reason that she was never served. The claimant requested and was granted a continuance. But, before the hearing concluded, the employer raised as an issue the question of the claimant's monetary eligibility on the ground that monies posted to the credit of the claimant for unemployment insurance purposes were in fact disability payments and sick pay. The employer was directed to produce witnesses and evidence at the subsequent hearing to establish proof of the claimant's monetary ineligibility. The matter was continued to January 26, 1981 and again postponed. The matter then came on for a hearing on May 18, 1981, at which time neither the claimant nor her attorney appeared. However, the witness who had previously been subpoenaed and who had been subpoenaed once again for this hearing did appear.

FINDINGS OF FACT

The claimant filed an original claim for unemployment insurance benefits at College Park effective August 10, 1980.

The claimant had been employed by the Prince George's County Department of Housing for approximately two years and with the County Government for about ten years. On May 2, 1979, the claimant suffered a compensable accidental injury on the job. She was paid disability benefits equivalent to temporary total Workmen's Compensation benefits until about August 20, 1979. The claimant was then granted an extended advance sick leave up to an amount equal to the dollar value of accrued annual leave. Those benefits then were exhausted as of August 12, 1979 at which time the claimant was granted leave without pay. The claimant remained off from work until June 1980, at which time the Director of Housing sent the claimant a letter dated June 11, 1980 instructing her to either return to work or to advise the employer by June 30, 1980 of her intent to return to work. According to the employer's supervisor, the claimant was in contact with supervision and did in fact report to work on July 22, 1980, with the consent and concession of her supervisor. But, the claimant worked for only a few hours, finding that she was physically unable to cope with the requirements of the position. She then went home, leaving the job and has not returned since.

According to the employer representative, the claimant had earnings for work performed in the 2nd quarter of 1979 in the amount of \$1,267.47. All other monies paid to the claimant from May 2, 1979 through October 12, 1979 represents disability benefits and sick pay.

The Appeals Referee finds as a fact that pursuant to the provisions of Section 20(g) 10(M)2, "wages" by definition does not include the amount of any payment on account of retirement, sickness or accident disability, medical or hospitalization expenses in connection with sickness or accident disability, or death. Accordingly, it is further found as fact that the claimant had wages in only one quarter of her base period, namely; the second quarter of 1979. Upon the filing of a claim on August 10, 1980, the claimant's base period would have been from April 1, 1979 through March 31, 1980. As the claimant has had no earnings based on work for services performed during the base

period, except for the second quarter of 1979, she is not monetarily eligible for benefits. The Appeals Referee further finds as fact that the claimant made a reasonable, sincere, overt effort to accede to the employer's request to return to work or be terminated. But, the claimant was unable to continue employment by reason of her disability which was directly attributable to, arising from or connected with the conditions of employment .

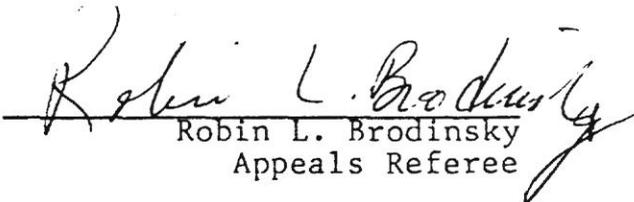
COMMENTS

Based upon the findings above, the Appeals Referee concludes that the claimant is not monetarily eligible for benefits pursuant to the provisions of Section 4(d)1 and 3(b) of the Maryland Unemployment Insurance Law for the reason that she had failed to meet the minimum qualifying wage requirements to be eligible for a benefit amount. Additionally, the Appeals Referee concludes that the cause of the claimant's unemployment was due to leaving work involuntarily for a cause directly attributable to, and arising from the conditions, of employment. However, the question of non-monetary eligibility becomes moot in the face of elimination of wage credit and consequently the claimant's benefit amount. All wages designated for this claimant during the base period from April 1, 1979 through March 31, 1980 shall be stricken, except for \$1,267.47 representing earnings from April 1, 1979 through May 2, 1979.

DECISION

It is held that the claimant's unemployment was due to leaving work involuntarily for a cause directly attributable to, arising from or connected with the conditions of employment which is non-disqualifying under Section 6(a) of the Maryland Unemployment Insurance Law.

It is held that the claimant is not monetarily eligible for benefits within the meaning of Section 4(d) and 3(b) of the Maryland Unemployment Insurance Law. Benefits are denied from August 10, 1980 and thereafter, until the claimant meets the earning requirements in insured work pursuant to the monetary eligibility requirements of the unemployment insurance Law. The determination of the Claims Examiner is reversed.


Robin L. Brodinsky
Appeals Referee

Date of hearing: May 18, 1981

jlt

(6201--Gibson)

Copies mailed to:

Claimant

Employer

Unemployment Insurance - College Park

Gibbens Company

Van S. Powers, Atty.

8720 Georgia Ave. Ste. 600, Silver Spring, Md.